

AUG 15 2016

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION

UNITED STATES OF AMERICA

Case No. 5:10-cr-00016-1

v.

MEMORANDUM OPINION

EVERETT CORNELIUS KAYMORE,
Petitioner.

By: Hon. Michael F. Urbanski
United States District Judge

Everett Cornelius Kaymore, a federal inmate proceeding pro se, filed a motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255 (ECF No. 174). Court records indicate that the court already dismissed (Dkt. No. 155) a prior § 2255 motion (Dkt. No. 135) by which Petitioner could have raised the instant arguments about his guilty plea, sentence, and counsel's performance. Thus, the § 2255 motion is a second or subsequent motion under 28 U.S.C. § 2255(h). See, e.g., United States v. Hairston, 754 F.3d 258, 262 (4th Cir. 2014).

The court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that a claim in the motion meets certain criteria. See 28 U.S.C. § 2255(h). As Petitioner has not submitted any evidence of having obtained certification from the Court of Appeals to file a second or successive § 2255 motion, the court dismisses the § 2255 motion without prejudice as successive. Based upon the court's finding that Petitioner has not made the requisite substantial showing of denial of a constitutional right as required by 28 U.S.C. § 2253(c), a certificate of appealability is denied.

ENTER: This 12th day of August, 2016.

ts/michael f. urbanski

United States District Judge